



AFFORDABLE CARE ACT MASSACHUSETTS IMPLEMENTATION UPDATE

August 10, 2011

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These Updates, published by the Executive Office of Health and Human Services (EOHHS) in consultation with the other state agencies involved in ACA implementation, will bring you news related to the implementation of provisions of the ACA here in Massachusetts.

Grants and Demonstrations

The ACA provides funding opportunities to transform how health care is delivered, expand access to care and support healthcare workforce training.

Grant Announcements

Medicaid Emergency Psychiatric Demonstration, §2707. Announced August 9, 2011. Demonstration provides up to \$75 million in funding to states over three years to help care for Medicaid patients (aged 21 through 64) with psychiatric emergencies, in private inpatient psychiatric facilities with 17 or more beds, also known as institutions for mental diseases (IMDs). Demonstration is designed to provide states with more flexibility and resources to care for Medicaid beneficiaries with mental illnesses.

Applications are due to CMS by October 14.

Read a summary of the demonstration project at:

http://www.cms.gov/DemonstrProjectsEvalRepts/downloads/MEPD_Summary.pdf

Read the State Medicaid Director Letter inviting states to apply at: [CMS](#)

The solicitation is available at:

http://www.cms.gov/DemonstrProjectsEvalRepts/downloads/MEPD_Solicitation.pdf

Guidance

8/8/11 CMS published a final rule reducing **Medicare skilled nursing facility (SNF) Prospective Payment System (PPS) payments in FY 2012** by \$3.87 billion, or 11.1% lower than payments for FY 2011. The FY 2012 rates correct for an unintended increase in payment levels and better align Medicare payments with costs. The FY 2012 recalibration of the case mix index will result in a reduction to SNF payments of \$4.47 billion or 12.6%. However, this reduction will be partially offset by the FY 2012 update to Medicare payments to SNFs. The update (an increase of 1.7% or \$600 million for FY 2012) reflects a 2.7% increase in the prices of a "market basket" of goods and services reduced by a 1.0% multi-factor productivity (MFP) adjustment mandated by the ACA. The final rule discusses the impact of certain ACA provisions and announces that proposed provisions regarding ownership disclosure requirements set forth in the ACA will be finalized at a later date.

Read the rule at : <http://www.gpo.gov/fdsys/pkg/FR-2011-08-08/pdf/2011-19544.pdf>
For more information, see www.cms.hhs.gov/center/snf.asp

8/5/11 CMS issued a **State Medicaid Director letter (SMD) with a Questions and Answers (Q&As) document that provides guidance on the maintenance of effort (MOE) provisions** in the ACA. The Q&As address the ACA MOE provision for Medicaid eligibility as it relates to institutional level of care requirements and home and community based services (HCBS). The SMD also includes a Q&A with information on strengthening Program Integrity consistent with the MOE provisions.

Read the SMD and the Q&As at: <https://www.cms.gov/smdl/downloads/SMD11-009.pdf>

8/5/11 CMS published a final rule that updates Medicare **payment policies and rates for hospital-based inpatient rehabilitation facilities (IRFs) in FY 2012**. The final rule increases IRF payment rates under the IRF Prospective Payment System (PPS) by 2.2% and establishes a new quality reporting system authorized by §3004 of the ACA.

Read the final rule at: <http://www.gpo.gov/fdsys/pkg/FR-2011-08-05/pdf/2011-19516.pdf>
Read the fact sheet at:
<https://www.cms.gov/apps/media/press/factsheet.asp?Counter=4033>

Prior guidance can be viewed at: www.healthcare.gov

News

8/4/11 HHS/The Center for Consumer Information and Insurance Oversight (CCIIO) **denied Guam's request for a waiver which would have allowed insurers in those states to phase in the ACA's medical loss ratio (MLR) requirements**, saying the rules in question don't apply to the insurance markets in Guam.

The ACA allows the Secretary to adjust the medical loss ratio (MLR) standard for a state if it is determined that meeting the 80% MLR standard may destabilize the individual insurance market. In order to qualify for this adjustment, a state must demonstrate that requiring insurers in its individual market to meet the 80% MLR has a likelihood of destabilizing the individual market and result in fewer choices for consumers. As part of the ACA, if insurers fall short of the standards in 2011, they'll have to issue rebates for that amount in 2012.

Guam requested an adjustment to the MLR that would allow a gradual transition to the 80% requirement. CCIIO notified Guam that the agency has no authority to grant their request in the group market and that the individual market is so small that insurers don't have to pay rebates. Under the ACA, insurers that don't cover a certain number of people are presumed to be "non-credible" and therefore in compliance with the MLR spending requirements. The two companies that sell individual policies in Guam do not have to pay rebates because they are presumed to meet or exceed the 80% threshold and be compliant.

As of July 22, 2011 HHS had approved waivers for five states including Iowa, Kentucky, Maine, Nevada, and New Hampshire. The other states that have applied include: Delaware, Kansas, Indiana, Louisiana, Georgia, and Florida. In July HHS denied North Dakota's request for a waiver. For more information on states and the MLR requirements visit the CCIIO website at: <http://cciio.cms.gov/programs/marketreforms/mlr/index.html>

7/29/11 CCIIO issued preliminary decisions about whether states met the external appeals standards established by July 2010 guidance (which contained 16 key elements) or by June 2011 guidance (which contained 13 similar standards). According to federal guidance issued since passage of the ACA, a state external review process must meet new federal requirements or an alternate federal process will apply. Massachusetts' existing state process does not meet all of the 16 original standards, nor does it meet all of the 13 standards. The guidance issued in July 2011 extends the period during which noncompliant state external review processes may operate until January 1, 2012 and gives states that have processes that are similar to the required process until 2014 to bring their processes into full compliance.

When a health plan denies a requested service or supply based on medical necessity, an external appeal process provides a means for an independent review of whether the requested service or supply is medically necessary and therefore a benefit under the health plan. The ACA requires insurers to have in place certain protections that give consumers the ability to more easily file an appeal when their claims are denied.

According to CCIIO, twenty-three states have external review laws that meet the 16 criteria, and another 10 have similar laws in place, giving them until 2014 to tweak their standards. The remaining 17 states (including Massachusetts) and Washington, D.C., don't meet either standard. States have until October 1, 2011 to ask for a redetermination if the state changes its process to comply with the temporary 13 standards. Massachusetts is looking into whether to change our process to meet the federal requirements necessary to continue our state process.

For more information, including CCIIO's preliminary determinations of states' external appeals processes. For more information, visit: [CCIIO](http://cciio.org)

EOHHS News

8/1/11 EOHHS submitted comments on the proposed data collection standards for race and ethnicity required by §4302 of the ACA. The comments can be viewed online at the **Massachusetts National Health Care Reform website** under the State and Federal Communications Section at: [MassGov](http://mass.gov)

Upcoming Events

Next Quarterly Stakeholder Meeting

Patient Protection and Affordable Care Act Implementation meeting
Monday October 17, 2011 from 11:00 A.M.-12:00 P.M.
1 Ashburton Place, 21st floor, Boston

Open Meeting

Integrating Medicare and Medicaid for Dual Eligible Individuals

August 31, 2011, 10 am- 12pm
Saxe Room, Worcester Public Library
Worcester, MA

Consumer Focused Meeting

Integrating Medicare and Medicaid for Dual Eligible Individuals

September 27, 2011, 10am- 12 pm
1 Ashburton Place, 21st Floor, Conference Room 3
Boston, MA

*please note the date change for the September meeting

Open Meeting

Integrating Medicare and Medicaid for Dual Eligible Individuals

October 11, 2011, 10am- 12 pm
State Transportation Building
Conference Rooms 2 & 3, Second Floor
10 Park Plaza
Boston, MA

Bookmark the **Massachusetts National Health Care Reform website** at:
www.mass.gov/nationalhealthreform to read updates on ACA implementation in Massachusetts.

Remember to check www.mass.gov/masshealth/duals for information on the "**Integrating Medicare and Medicaid for Dual Eligible Individuals**" initiative.